

AGENDA MEMO

CITY COUNCIL MEETING DATE: MAY 6, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

**ITEM DESCRIPTION: VAR-32553 - APPLICANT/OWNER: SMOKE RANCH
DEVELOPMENT, LLC**

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission (6-0 vote) recommends APPROVAL, subject to:

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Special Use Permit (SUP-32552) and Site Development Plan Review (SDR-32555) shall be required, if approved.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Variance to allow a one-foot setback along the south perimeter where 25 feet is required; to allow a one-foot setback along portions of the north and west perimeters where 10 feet is required; to allow a five-foot setback along a portion of the east perimeter; to allow a lot coverage of 59% where 30% is the maximum permitted; and to allow a 60-foot wide lot where 100 feet is the minimum required on 2.63 acres adjacent to the south side of Smoke Ranch Road, approximately 1,300 feet east of Buffalo Drive. In addition to this application, the applicant has submitted a request for a General Plan Amendment (GPA-32550) to change the General Plan designation from O (Office) to SC (Service Commercial), a Rezoning (ZON-32551) from U (Undeveloped) [O (Office) General Plan designation] under Resolution of Intent to P-R (Professional Office and Parking) to N-S (Neighborhood Service), a Special Use Permit (SUP-32552) for a Mini-Storage Facility use and a Site Development Plan Review (SDR-32555) for a proposed 99,549 square-foot Mini-Storage Facility with a Waiver to allow a zero-foot landscape buffer along the east, south, north and a portion of the west perimeter where eight feet is required.

The associated General Plan Amendment (GPA-32550) and Rezoning (ZON-32551) requests both seek to change the land use designation and zoning to an intensity that is not compatible with the surrounding neighborhood. The requests for Waivers associated with the Site Development Plan Review coupled with this Variance request for setback reductions and lot coverage intensification indicate the site will be overbuilt and not appropriate for the proposed use; therefore, staff recommends denial of this request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
02/18/04	The City Council approved a General Plan Amendment (GPA-3455) to Amend a portion of the Southwest Sector Plan of the General Plan from ML (Medium Low Density Residential) to O (Office), a Rezoning (ZON-3456) from U (Undeveloped) [ML (Medium Low Density Residential) General Plan designation] to P-R (Professional Offices and Parking) and a Site Development Plan Review (SDR-3457) for a 31,555 square-foot Office building with a Waiver of the Commercial Development Standards on 2.67 acres at 7401 Smoke Ranch Road. The Planning Commission and staff recommended approval of these requests.
10/07/04	The Planning and Development Department administratively approved a Parcel Map (PMP-4315) for 2 lots on 5.4 acres on property located on Smoke Ranch Road, approximately 1320 feet West of Tenaya Way. The map recorded on 04/18/05.

03/23/06	The Planning Commission accepted a Withdrawal Without Prejudice for a General Plan Amendment (GPA-10776) to Amend a portion of the Southwest Sector Plan of the General Plan from O (Office) to SC (Service Commercial), a Rezoning (ZON-10778) from U (Undeveloped) [O (Office) General Plan designation] under Resolution of Intent to P-R (Professional Office and Parking) to C-1 (Limited Commercial), a Variance (VAR-10780) to allow a 3.25-foot side yard landscape buffer and a two-foot rear yard landscape buffer where eight feet is required and a Variance (VAR-10781) to allow a 39-foot Residential Adjacency Setback where 135 feet is the minimum setback required. Staff recommended denial of these requests.
05/17/06	The City Council approved a Variance (VAR-12669) to allow a three-story building where two stories is the maximum height allowed, a Special Use Permit (SUP-10783) for a Mixed-Use development and a Site Development Plan Review (SDR-10784) for a three-story, 45-foot high, Mixed-Use development consisting of 25 residential units and 13,243 square feet of Office Space with Waivers to allow a minimum lot width of 59 feet where 100 feet is the minimum lot width required and to allow a reduction of perimeter landscaping on 2.72 acres adjacent to the south side of Smoke Ranch Road, approximately 1,300 feet east of Buffalo Drive. The Planning Commission recommended approval of these requests, whereas staff recommended denial.
02/21/07	The City Council approved a Rezoning (ZON-18753) from U (Undeveloped) [O (Office) General Plan designation] to P-R (Professional Offices and Parking) and a Site Development Plan Review (SDR-18657) for a three-story 40,971 square-foot Office building with Waivers to allow a zero-foot landscape buffer where eight feet is required along the southern property line and along the on-site public trail, a reduction in the perimeter landscape required and of required parking lot landscaping on 2.7 acres adjacent to the south side of Smoke Ranch Road, approximately 1,300 feet east of Buffalo Drive. The Planning Commission and staff recommended approval of these requests.
01/11/08	A Code Enforcement complaint (#61269) was processed for sign code violations and a semi parking on the subject property. The case was resolved 02/01/08.
04/16/08	The City Council approved a Petition to Vacate (VAC-26629) a 10-foot wide public drainage easement generally located 1265 feet east of the southeast corner of Buffalo Drive and Smoke Ranch Road. The Planning Commission and staff recommended approval of this request.
05/21/08	The City Council approved an Extension of Time (EOT-27700) for an approved Variance (VAR-12669) to allow a three-story building where two stories is the maximum height allowed. Staff recommended approval of this request.
10/15/08	A Code Enforcement complaint (#70692) was processed for a non-permitted chain link fence, vehicles, trailers and semis parking on the subject property. The case is still open pending resolution.

04/09/09	<p>The Planning Commission recommended approval of companion items GPA-32550, ZON-32551, VAR-32553, SUP-32552 and SDR-32555 concurrently with this application.</p> <p>The Planning Commission voted 6-0 to recommend APPROVAL (PC Agenda Item #10/DC).</p>
Related Building Permits/Business Licenses	
There are no building permits or business licenses associated with this application.	
Pre-Application Meeting	
01/18/08	A pre-application meeting was held where the requirements for submitting a Site Development Plan Review, General Plan Amendment, Rezoning, Variance and Special Use Permit were discussed.
Neighborhood Meeting	
02/09/09	<p>A neighborhood meeting was held on Monday February 9, 2009 at 6:30 pm at the Summerhill Villas Apartments Clubhouse located at 2150 North Tenaya Way, Las Vegas, Nevada 89128.</p> <p>There were two members of the general public present, one member of the development team, one Planning and Development staff member and one Council representative present at the meeting.</p> <p>Concerns were raised at the meeting regarding gaps along the northern wall, drainage of the western lots and blasting prior to grading.</p>

Field Check	
12/17/08	A field check was conducted by staff at the subject site. The site was noted as undeveloped, with a paved 10-foot wide Multi-Use Transportation Trail adjacent to the east perimeter of the site. Additionally, a recently installed, non-permitted chain link fence with gates was noted near the entrance to the property.

Details of Application Request	
Site Area	
Gross Acres	2.63

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Undeveloped	O (Office)	U (Undeveloped) [O (Office) General Plan designation] under Resolution of Intent to P-R (Professional Office and Parking)
North	Office Development	LI/R (Light Industry / Research)	C-PB (Planned Business Park)

South	City Park	PR-OS (Parks/Recreation/Open Space)	C-V (Civic)
East	Multi-Use Transportation Trail	R.O.W (Right-of-Way)	R.O.W (Right-of-Way)
West	Church	ML (Medium Low Density Residential)	U (Undeveloped) [ML (Medium Low Density Residential) General Plan designation]
	Single-Family Residential	ML (Medium Low Density Residential)	R-CL (Single Family Compact-Lot)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	N/A
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
A-O (Airport Overlay) District (175 Feet)	X		Y*
Trails (Multi Use Transportation Trail)	X		N**
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

* The subject property is located within the North Las Vegas Airport Overlay Map within the 175-foot height limitation contour. The proposed buildings on the subject property do not extend beyond this limitation.

** The site is located adjacent to a Multi-Use Transportation Trail as identified by the Master Plan Transportation Trails Element. All issues addressing the trail requirements are identified in the companion Site Development Plan Review (SDR-32555).

DEVELOPMENT STANDARDS

Pursuant to Title 19.08, the following standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	N/A	114,632 SF	N/A
Min. Lot Width	100 Feet	60 Feet	N*
Min. Setbacks			
• Front	25 Feet	50 Feet	Y
• Side (West)	10 Feet	1-Foot	N*
• Side (East**)	10 Feet	5 Feet**	N*
• Rear	25 Feet	1-Foot	N*
Max. Lot Coverage	30%	59%	N*

Max. Building Height	Lesser of Two Stories or 35 Feet	22 Feet	Y
Trash Enclosure	Screened, Enclosed	Screened, Enclosed	Y
Mech. Equipment	Screened	Screened	Y

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** Staff notes that the site plan submitted by the applicant is inaccurate as the east perimeter setback of Building B is listed on the plans as 15 feet from the property line. The applicant has incorrectly included APN 138-22-199-005, which is a 10-foot wide trail corridor, as part of the eastern portion of the subject property. The actual setback for Building B, subtracting the 10-foot wide trail corridor shown on the site plan, is five feet from APN 138-22-199-005.

Pursuant to Title 19.08.060, the following standards apply:

<i>Residential Adjacency Standards</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
3:1 proximity slope	66 Feet	69 Feet	Y
Adjacent development matching setback	10 Feet	10 Feet	Y
Trash Enclosure	50 Feet from Residential	370 Feet	Y

ANALYSIS

This application is a request for a Variance to allow a one-foot setback along the south perimeter where 25 feet is required; to allow a one-foot setback along portions of the north and west perimeters where 10 feet is required; to allow a five-foot setback along a portion of the east perimeter; to allow a lot coverage of 59% where 30% is the maximum permitted; and to allow a 60-foot wide lot where 100 feet is the minimum required for a proposed Mini-Storage Facility. A related Site Development Plan Review (SDR-32555) will be considered concurrently with this request. The proposed Mini-Storage Facility use is too intense for the area and incompatible with the adjacent land uses.

The subject property is a flag lot, which is defined by Title 19.20 as a lot having access or an easement to a public or private street by a narrow, private right-of-way. Staff recognizes that there are constraints when building on such a lot, however the applicant has chosen to propose a Rezoning (ZON-32551) to a N-S (Neighborhood Service) zone which requires a minimum lot width of 100 feet where the existing zoning district of O (Office) allows a 60-foot wide lot; chosen to provide a lot coverage which is nearly double than that permitted by Title 19.08; and placed the proposed buildings at the edges of the subject property which will negatively impact the surrounding land uses.

Additionally, no compelling justification has been provided as to why the proposed Variance is necessary in order to accommodate the site as designed, nor has reason been given for the one-foot building setback and reduced east perimeter setback. In reference to the reduced east perimeter setback, staff notes that the site plan submitted by the applicant is inaccurate as the east perimeter setback of Building B is listed on the plans as 15 feet from the property line. The applicant has incorrectly included APN 138-22-199-005, which is a 10-foot wide trail corridor, as part of the eastern portion of the subject property. The actual setback for Building B, subtracting the 10-foot wide trail corridor shown on the site plan, is five feet from APN 138-22-199-005. Staff finds that the applicant is proposing to over build the subject site resulting in multiple buildings, which intrude into the required landscape buffers, cover more site area than is permissible by Title 19.08, and placed buildings in an area which should serve solely as a site driveway. The proposed deviations are all self-imposed hardships; therefore, staff recommends denial of this Variance request.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by proposing to over build the site. Alternatively, re-orientation of the proposed buildings or scaling back the proposed development would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 10

ASSEMBLY DISTRICT 37

SENATE DISTRICT 6

NOTICES MAILED 209 by City Clerk

APPROVALS 1

PROTESTS 2